

APPEAL NO. 040929
FILED JUNE 14, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 25, 2004. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable heart attack on _____, and that he had disability from January 6 through January 25, 2003. The appellant (self-insured) appealed, contending that the hearing officer's decision is supported by insufficient evidence or, alternatively, is contrary to the great weight and preponderance of the evidence. The claimant asserts that the evidence supports the hearing officer's decision.

DECISION

Affirmed.

The claimant had the burden to prove that he sustained a compensable heart attack under the provisions of Section 408.008, and that he had disability as defined by Section 401.011(16). The hearing officer's discussion of the evidence and findings of fact reflect that she considered and appropriately applied Section 408.008 in determining whether the claimant sustained a compensable heart attack. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We do not view our decision in Texas Workers' Compensation Commission Appeal No. 012157, decided October 31, 2001, which is cited by the self-insured, as compelling a reversal in the instant case because of dissimilarities in the evidence between that case and the instant case, including medical evidence in the instant case regarding the cause or causes of the plaque rupture that resulted in the claimant's heart attack. The hearing officer, as the finder of fact, had to determine whether the preponderance of the medical evidence regarding the heart attack indicated that the employee's work rather than the natural progression of a preexisting heart condition or disease was a substantial contributing factor of the heart attack. The hearing officer considered the medical evidence and found in favor of the claimant on that question as well as the other provisions of Section 408.008. We conclude that the hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**HONORABLE MAYOR
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Robert W. Potts
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge